



TEXAS JUVENILE JUSTICE DEPARTMENT

TRANSFORMING YOUNG LIVES AND CREATING SAFER COMMUNITIES

Board Meeting

11209 Metric Boulevard, Building H, Ste. A
Lone Star Conference Room
Austin, TX 78758
Friday, August 25, 2017 – 9:00 a.m.

BOARD MEMBERS PRESENT:

Mr. Scott W. Fisher, Chairman
James Castro
Judge Lisa Jarrett
Chief Scott Matthew
Candy Noble
Allison Palmer
Judge Wes Ritchey
Jimmy Smith

BOARD MEMBERS ABSENT:

Judge Carol Bush
Chief Edeska Barnes
Chief Pama Hencerling
MaryLou Mendoza
Judge Stephanie Moreno

EXECUTIVE STAFF PRESENT:

David Reilly, Executive Director
Chelsea Buchholtz, Chief of Staff
Tushar Desai, Director of Medical Services
Luther Taliaferro, Director of Education Services
Jim Southwell, Chief Information Officer

Jill Mata, General Counsel
Carolyn Beck, Director of External Relations
Eleazar Garcia, Chief Internal Auditor
Mike Meyer, Chief Financial Officer
Teresa Stroud, Senior Director of Programs & Facilities

Other Guests Present

Susan Humphrey, Bell Co.
Daniel Guajardo, TJJD
Matt Benbow, Palo Pinto Co.
Ken Ming, TJJD
Sheri Short, Navarro College
Doug Vance, Brazos Co.
Karen Kennedy, TJJD
Jeanette Lepe, TJJD
Debbie Unruh, OIO
Steve Roman, TJJD
Scott Friedman, TJJD

Kevin DuBose, TJJD
Kaci Singer, TJJD
Amy Miller, TJJD
Amanda Britton, Midland Co.
Aris Johnson, Greg Co.
Vivian Cohn, TJJD
Emily Anderson, TJJD
Josh Bauermeister, TJJD
LuAnn Brown, TJJD
Connie Simon, TJJD

Todd Novak, TJJD
Lucy Rodriguez, TJJD
Kathryn Gray, TJJD
Jenna Reblin, TJJD
Ross Worley, Smith Co.
Xavier Casares, TJJD
Stephanie Valdez, TJJD
Granyon Perry, TJJD
Maria Tissing, TJJD
Marie Welsch, TJJD

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Call to order

Chairman Fisher called the meeting to order at 9:00 a.m.

Prayer

Cathy Berryhill, Education Reading Specialist, opened the meeting with a prayer.

Pledge

The Pledge of Allegiance and Pledge to the Texas Flag were recited.

Discussion, consideration and possible approval regarding excused absences

Board members absent were Edeska Barnes, Carol Bush, Pama Hencerling, Marylou Mendoza and Stephanie Moreno. Wes Ritchey moved to excuse their absence. Candy Noble seconded. The motion passed.

Discussion, consideration, and possible approval regarding the June 16, 2017 meeting minutes

Jimmy Smith moved to approve the minutes. Scott Matthew seconded. The motion passed.

Report from the Chairman

Chairman Fisher announced the dates for the 2018 board meetings:

January 25 – 26

March 22 – 23

June 14 – 15

August 9 – 10

October 25 – 26

Chairman Fisher announced a streamlined, modified process for the rule reviews. Beginning this meeting, all proposed rules will continue to be brought to the Board for approval. At the same meeting that the rule is presented and proposed for publishing in the Texas Register, the Board will also consider the adoption of the rule if no public comments are received, changes to the rule are merely technical or stylistic, etc., or the Board does not otherwise direct the staff to bring the rule back for adoption.

In response to a question by Candy Noble, Chairman Fisher confirmed with staff and then stated that comments to rule changes must be submitted in writing.

Public Comments

There were no public comments.

Report from the Executive Director

David Reilly, Executive Director, started his report by introducing Lou Serrano, Senior Director of Probation and Community Services and gave the Board an overview of Mr. Serrano's background.

Mr. Reilly discussed the success of the first year of the integrated school schedule at each of the state schools. The new school schedule contributed to positive statistics, which compares the 2015/2016 school year to the most recent 2016/2017 school year. Responsibility center referrals were down 44%, security referrals were down 60%, credits earned were up 25% and industry certifications were up 11%.

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Mr. Reilly informed the Board that at the end of July, there was a water shortage at the McLennan facility. The Disaster Relief Division of the Texas Baptist's Men's Group served the facility for several days by providing laundry and showers at a time when the facility greatly needed the help.

Mr. Reilly explained the functional review process and the primary goals to the Board. The review touched all functional areas, with each division making sacrifices and enduring the sometimes painful process of reorganization. In several cases, director goals and initiatives were addressed. The functional review is still in progress for a limited number of areas, especially halfway house operations and probation system support. Some of these changes will unfold over the next six months. Mr. Reilly stated he will provide another update on progress in October.

Midland County Juvenile Probation Department Systems of Care program overview

Amanda Britton, Deputy Chief Juvenile Probation Officer, gave a presentation regarding their systems of care program, Pathways to Hope, an evidence-based practice.

Scott Matthew congratulated Ms. Britton on her recent promotion and thanked her for what they are doing with this program.

In response to a question from James Castro, Ms. Britton stated that they did not apply for the SAMSHA Grant to assist with this program. She stated they have brought on this program with minimal funding.

Report from the Advisory Council

Doug Vance, Chair of the Advisory Council, stated the Advisory Council last met on June 23, 2017 and summarized the topics from that meeting. He congratulated Mr. Reilly and staff who did a very good job of presenting relevant information on specific bills and their impact on juvenile justice at the Post Legislative Conference.

Discussion, consideration, and possible approval to publish revisions to 37 TAC §380.8581, concerning Supervision Levels in Parole Home Placement, and §380.8583, concerning Subsidized Living Support Program, in the Texas Register for a 30-day public comment period and possible conditional approval to adopt the final rules (Action)

Todd Novak, Manager of Reentry System and Parole Operations, requested the Board's approval to publish the proposed revisions in the Texas Register for a 30-day public comment period. He also requested the Board's approval to adopt the final rules after the public comment period has ended, but only if the conditions listed in the accompanying resolution are met. He summarized the proposed key changes to each of the rules.

In response to a question by Allison Palmer, Mr. Novak stated if the youth wanted to participate in an activity, staff would consider it and if approved payment is made to the provider, funds are not given to the youth.

Chairman Fisher stated that the Program Committee recommended approval and final adoption, pending compliance with the requirements set forth in the resolution. Wes Ritchey moved to approve the resolution. Candy Noble seconded. The motion passed.

Discussion, consideration, and possible approval to publish revisions to 37 TAC §380.8505, relating to Initial Assessment, in the *Texas Register* for a 30-day public comment period and possible conditional approval to adopt the final rule (Action)

Tushar Desai, Medical Director, requested the Board's approval to publish the proposed revisions in the Texas Register for a 30-day public comment period. He also requested the Board's approval to adopt the final rules after the public comment period has ended, but only if the conditions listed in the accompanying resolution are met. He summarized the proposed key changes to the rule.

In response to a question by Chairman Fisher, Dr. Desai stated the agency does receive written correspondence from the counties that states the current medical status of the youth.

Chairman Fisher stated that the Program Committee recommended approval and final adoption, pending compliance with the requirements set forth in the resolution. James Castro moved to approve the resolution. Scott Matthew seconded. The motion passed.

Discussion, consideration, and possible final adoption of revisions to 37 TAC Chapter 344 (Employment, Certification, and Training) and changes to certain rules within Chapter 341 (General Standards for Juvenile Probation Departments), Chapter 343 (Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities), and Chapter 355 (Non-Secure Correctional Facilities) (Action)

Kristy Almager, Director of Training, requested final adoption of these chapters as revised. Public comment was received and as a result, some modifications were made to the rules. Ms. Almager also sought approval for the proposed agency response to the public comment received. She acknowledged that this rule review and revision process was a collaborative effort between TJJD staff, TJJD Advisory Council, and other stakeholders to rewrite Chapter 344 and thanked those that participated.

Allison Palmer stated staff did a carefully considered job of the rule revisions and incorporating the public comments.

Wes Ritchey moved to adopt the final rule revisions and the agency response to the public comment received. Jimmy Smith seconded. The motion passed.

Discussion, consideration, and possible approval of new §353.1, concerning Substance Abuse Facilities and Programs, for immediate adoption on an emergency basis. (Action)

Kaci Singer, Staff Attorney, stated this is an emergency rule because of a change in law that requires TJJD regulate juvenile justice related substance abuse facilities and programs. She summarized why the rule was necessary. James Castro moved to approve the emergency rule. Lisa Jarrett seconded. The motion passed.

Discussion, consideration, and possible approval regarding the John C. Wende and Parrie Haynes trust fund FY 2018 investment policy and strategy (Action)

Mike Meyer, Chief Financial Officer, recommended no change to the trusts' investment policy or strategy for FY 2018. The resolution reflects consistency with current practice. Scott Matthew moved to approve the FY 2018 investment policy and strategy. Jimmy Smith seconded. The motion passed.

Report from the Inspector General

Forrest Mitchell, Chief Inspector General, presented data through July 26, 2017 including analytics, intelligence and reporting, criminal investigations, and special investigative initiatives. He stated he has seen a continued increase in the number of incidents reported. There is a 10% increase from the same time last year. Additionally, he has seen an increase in the administrative complaints referred to State Programs. There has been a 10% increase in gang evaluations from the same time last year. The number of cases submitted to prosecution for a sexual offense has increased 100%. He continues to see an increase in directives to apprehend and apprehensions. There has been a 53% increase in the number of cases referred to the Administrative Investigations Division.

Report from the Administrative Investigations Division

Kevin DuBose, Director of Administrative Investigations Division, provided a summary of comparisons for the county investigations unit and the state investigations unit for the time period of September 1 through June 30. On the county side, there continues to be a decrease in the average days to disposition. He continues to see an increase in sexual abuse by contact. There has been an increase in the number of attempted suicides. On the state side, there has been a significant decrease in the number of state investigations opened. The average days to disposition by cases continues to improve.

In response to a question by Chairman Fisher, Mr. DuBose stated he believes there are no open cases more than a year old, probably even six months. Chairman Fisher asked that that be tracked for reporting going forward.

Discussion, consideration, and possible approval regarding the John C. Wende and Parrie Haynes trust fund FY 2018 budgets (Action)

Emily Anderson, Director of Fiscal Affairs and Budget, stated budgeted expenditures are within available revenue and balances. The primary changes from estimated FY 2017 activity relates to budgeting for a possible increase to the amount provided for beneficiary aid. Staff requests the Boards approval of the FY 2018 budgets.

Scott Matthew moved to approve the budgets. Lisa Jarrett seconded. The motion passed.

Discussion, consideration, and possible approval regarding contract renewals exceeding \$500,000.00 (Action)

Kenneth Ming, Director of Business Operations and Contracts, presented two-year residential renewals and other contract renewals exceeding \$500,000.00 for Board approval.

Wes Ritchey moved to approve the contract renewals. Candy Noble seconded. The motion passed.

Discussion, consideration, and possible approval regarding the FY 2018 Operating Budget (Action)

Ms. Anderson stated the budget that is presented is the result of an extensive process that started as the legislative session was ending. The budget team built a preliminary budget based on legislative and executive management direction. This preliminary budget was then taken to each senior director and their staff for review and comment. In addition, each senior director went through the functional review activity that Mr. Reilly has already discussed. The result of this work is brought to the Board today for approval.

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Legislative appropriations for Goal A, probation activities, are fully allocated. Fiscal Year 2018 saw a decrease of \$7.5M total funding from Fiscal Year 2017. \$6.5M of this decrease was in General Revenue. This decrease was driven by mandated baseline reductions as well as population based reduction to Basic Supervision. Not included in the budget is an estimated \$1.15M of refunds from FY 2017. The probation funding allocations that the Board approved in June account for the decreased level of funding.

Chairman Fisher stated that probation funding is determined by the legislature, not the TJJD Board. Wes Ritchey stated the agency came up with a unique formula for the counties and did a good job of communicating that to the counties.

The proposed operational budget for state programs and facilities in Goal B is lower than the current FY 2017 budget by \$1.4M. This is a result of mandated baseline reductions, other internal reallocations, an appropriated increase for medical and psychiatric care, and a significant decrease in educational grant funding budget. Funding for State Programs and Facilities was based on an internal population target of 1,269. This will align operations with available resources. In addition to the State Programs and Facilities operational budget, the agency received \$12.1M for rehabilitation and repair of buildings.

Allocations for Parole Programs and Services in Goal C are higher in FY 2018 compared to FY 2017 by a total of \$0.3M. This is due to the restoration of funding that was transferred out in FY 2017 to support safety and security needs in state facilities. In addition, the proposed operating budget includes an enhancement to youth financial support for reentry.

Funding for the Office of Independent Ombudsman decreased by \$0.2M in FY 2018 as a result of mandated funding reductions and certain one-time appropriations that were included in the FY 2017 budget.

System-wide activities including training, monitoring, and administration saw essentially no change in funding from the current FY 2017 budget. Total proposed budget for these activities is \$16.3M.

The budget before the Board lives within the boundaries of the agency's legislative appropriations while providing the ability of the agency to accomplish its mission. As with the previous biennium, approved funding will require the agency to continue to explore and implement operational efficiencies in order to address unforeseen needs.

The proposed resolution approves the budget presented today, authorizes the executive director to make reasonable modifications as necessary to operate the agency and maintain a balanced budget, and authorizes the executive director to transfer appropriations between items in accordance with the General Appropriations Act as necessary to implement the operating budget. Staff recommends approval of the recommended FY 2018 budget.

Allison Palmer inquired about the agency meeting staffing ratio while in the midst of cutting positions. Mr. Reilly stated the big issue going forward is our ability to meet the PREA requirements. The agency's capacity to do that will be a challenge in the future. He said we cannot afford to lose our voice about the staffing ratio when communicating to the legislature about agency needs or success will be limited. The same principle applies to probation. The more probation gets cut, the less they are able to do. In

response to a question by James Castro, Mr. Reilly stated there haven't been many advocates lining up downtown to support the agency.

Wes Ritchey moved to approve the proposed budget. Scott Matthew seconded. The motion passed.

Discussion, consideration, and possible approval regarding The Oaks Residential Contract Care Audit (Action)

Eleazar Garcia, Chief Auditor, stated at the time of the audit, The Oaks, was one of eight active private sector providers contracted by TJJD. The objective was to determine whether agency controls over The Oaks operations and processes were in place to ensure youth receive required programs and services. TJJD contract care staff reconciled the billing from The Oaks with supporting documentation. Youth were positive regarding case management as well as the services received from the psychologist. Medical Services reflected The Oaks staff were responsive to the Comprehensive Health Services Monitoring Review. Areas where controls can be enhanced to ensure compliance and improve processes are as follows: Reinforcing the search process for visitors could prevent the introduction of contraband to the facility. Improving agency controls to ensure contract staff abide by expected information security controls. Youth grievances should be retained and well documented. The Oaks' process to provide youth access for hotline calls can be strengthened. Documentation for financial recording of contract care expenses can be strengthened. Management concurred with the findings.

Lisa Jarrett moved to approve the audit. Candy Noble seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers- Default Orders (Action)

- a. **Erasmo Cantu, Certification No. 31339, 17-31339-170009 (Duval)**
- b. **Russell Cash, Jr., Certification No. 31325, 17-31325-170127 (Bell)**
- c. **Lisa Edwards, Certification No. 21393, 17-21393 (Titus)**
- d. **Abbi Maguffee, Certification No. 29993, 17-29993-170033 (Dallas)**
- e. **Sharla Osborne, Certification No. 28428; 17-28428 (Garza)**
- f. **Christine Taylor, Certification No. 31896, 17-31896 (Hood)**
- g. **Shane Taylor, Certification No. 22719, 17-22719-170133 (Milam)**

Jenna Reblin, Staff Attorney, stated that staff sends a petition to the respondent and they have 20 days to respond. If they don't respond, the Board can enter a default judgement. Staff then sends the respondent notice of the decision and they have an additional 25 days to respond. If still no response, the default judgment is entered. The cases brought before the Board have not responded.

Wes Ritchey moved to approve the default orders. Jimmy Smith seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers- Agreed Orders (Action)

- a. **Lance Douglas, Certification No. 30764, 17-30764-170138 (Dallas)**
- b. **Jogoria Johnson, Certification No. 28708, 17-28708-170082 (Dallas)**
- c. **Robert Moreno, Certification No. 26352, 17-26352-170145 (Atascosa)**

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d. Samuel Soliz, Certification No. 29687, 16-29687-160358 (Duval)

Ms. Reblin explained that the notification procedure for agreed orders is the same as for defaults orders. If the respondent responds, staff speaks with them regarding the reasons for the disciplinary actions. Staff and respondent come to an agreement instead of having a State Office of Administrative Hearing. The cases brought before the Board have entered into an agreed order approved by the executive director.

Candy Noble moved to approve the agreed orders. Scott Matthew seconded. The motion passed.

Chairman Fisher called for recess so the Board could convene in closed session at 10:50 a.m.

Closed Session – Executive Session

- a. **§551.071 Consultation with attorney (see footnote)**
- b. **§551.072 Deliberation regarding real property (John C. Wende and Parrie Haynes trusts)**
- c. **§551.074 Discussion regarding personnel matters relating to the performance evaluation of the Chief Internal Auditor**

Reconvene in open session, discussion, consideration, and possible approval regarding matters deliberated in closed executive session, if applicable (Action)

The Board reconvened in open session at 11:23 a.m.

Adjourn

The Chairman adjourned the meeting at 11:23 a.m.